

THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: Raymond J. Wesolowski, Jr. and : Chapter 13  
Grace Theresa Evans, :  
Debtors : Bankruptcy No.: 19-17800-amc

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**MOTION BY DEBTORS TO SELL REAL ESTATE KNOWN AS 121 DAVIS ROAD,  
COATESVILLE, PA 19320 AND TO PAY COMMISSIONS AND CLOSING COSTS**

COME NOW Debtors Raymond J. Wesolowski, Jr. and Grace Theresa Evans, through counsel at the Ross, Quinn & Ploppert, P.C., to request this Honorable Court for approval to sell real estate known as 120 Davis Road, Coatesville, PA 19320, and to pay real estate broker commissions and customary closing costs within the current Chapter 13 bankruptcy, and in support thereof aver as follows:

**BACKGROUND**

1. Debtors filed a joint voluntary petition for relief under Chapter 13 of Title 11, United States Code on December 13, 2019.
2. Kenneth E. West is the assigned as the Chapter 13 trustee ("Trustee").
3. The Chapter 13 plan has been confirmed by this Court. The plan did not contemplate sale of the real estate.
4. All assets, including the subject real estate, were revested in Debtors upon confirmation of the plan.
5. Debtors own and resided at 121 Davis Road, Coatesville, PA 19320.
6. On the date of filing in year 2019, Debtors estimated the value of the subject real estate as \$250,840.80 in Debtors' Schedule A/B.

7. On the date of filing in year 2019, a mortgage lien in favor of NewRez LLC d/b/a Shellpoint Mortgage Servicing existed against the subject real property in an amount of \$223,507.89.

8. On August 28, 2020, Debtors elected to exempt their real estate pursuant to 11 U.S.C. §522(b)(3)(B). The real property has been exempted under Pennsylvania tenancy by the entirety law.

9. The subject real estate revested in Debtors upon confirmation of the plan.

10. Debtor Raymond J. Wesolowski, Jr. has experienced significant health issues that have required extensive in-patient treatment.

11. Debtors are struggling financially to pay the mortgage, real estate taxes, and basic upkeep to the real estate on their modest incomes.

12. Recently, the mortgage lender and Debtors have executed a partial claim mortgage that cures post-petition loan arrears.

13. Furthermore, Debtors no longer wish to cohabitate.

14. On March 30, 2022, Debtors listed the real property for sale for \$365,000.00 with licensed real estate agents Brian Seymour and Matthew Boyle of Help-U-Sell Direct Homes of Exton, Pennsylvania.

#### SALE OF THE PROPERTY

15. Debtors have accepted an offer to sell the real estate for \$342,500.00 to Reuben Fisher (“Buyer”). A true and correct copy of the agreement of sale (the “Agreement”) is attached hereto as Exhibit “A”.

16. The proposed sale is an arms-length transaction of unrelated parties based upon the fair market value of the Property.

17. As is standard, the Agreement is contingent upon payment of all liens upon the Property, payment of required real estate transfer taxes, payment of ordinary real estate broker fees for Buyer and Seller, and payment of all other customary closing costs.

18. Upon closing of the transaction, real estate agents Brian Seymour and Matthew Boyle, the agent for Debtors, is to be paid \$4,950.00 as a flat fee sales commission.

19. As per the Listing Agreement, real estate agent Elvin Stoltzfus, the agent for Buyer, is to be paid 2.50% of the gross sales price as a sales commission equal to \$8,562.50 upon closing of the transaction.

20. Approval of the sale by this Court and ability to close the transaction on June 30, 2022 is required in order to conform to the contractual closing date. Therefore, waiver of the stay of the sale under Bankruptcy Rule 6004(h) is hereby requested.

21. Debtors do not have a preliminary settlement sheet as of the date of this motion, but upon the best information available, an estimation of payment upon settlement of the real estate, is as follows:

|   |                      |
|---|----------------------|
|   | <u>\$ 342,500.00</u> |
| NewRez LLC d/b/a Shellpoint Mortgage Servicing (Claim No. 9)* | \$ 225,000.00        |
| Estimated Closing Costs                                       | \$ 765.00            |
| Pennsylvania Real Estate Transfer Tax of 1.0%                 | \$ 3,425.00          |
| Brian Seymour and Matthew Boyle (Agent of Debtors)            | \$ 4,950.00          |
| Elvin Stoltzfus (Agent of Buyer)                              | \$ 8,526.50          |
| Estimated payment for past due real estate taxes              | \$ 7,451.00          |
| Payment of Estimated Attorney's Fees to Debtor's Counsel      | \$ 1,200.00          |

|   |                |
|---|----------------|
| Payment of Exempt Sale Proceeds Attributable to Debtors | \$ 91,182.50   |
| Payment to Chapter 13 Trustee                           | <u>\$ 0.00</u> |
| Total:  | \$342,500.00   |

\* The mortgage loans payable to NewRez LLC d/b/a Shellpoint Mortgage Servicing shall be paid in full on the settlement sheet regardless of the actual date of settlement, based upon payoff figures to be provided by NewRez LLC d/b/a Shellpoint Mortgage Servicing.

22. The Chapter 13 Trustee will not receive payment from the sale.

23. Debtors' Counsel has worked with Debtors in regard to defending a request for stay relief by mortgagee NewRez and worked with Debtors to counsel them regarding the real estate and its disposition. Currently, there is a \$1,216.76 balance with the office, which shall be reduced to \$1200.00 if paid at the time of settlement from exempt proceeds.

24. A preliminary settlement sheet will be prepared and sent to the Chapter 13 trustee prior to settlement.

25. A copy of the executed settlement sheet shall be forwarded to the Chapter 13 Trustee within 14 days following the sale.

26. Debtors shall receive all funds upon settlement after payment of necessary costs.

27. Sale of the Property is in the best interest of the Creditors and Debtors because the Property sale funds a full repayment of the mortgage lender secured by the real estate and allows Debtors the ability to pay the plan without the burden of the expenses associated with the real property.

WHEREFORE, Debtors respectfully request approval of this Honorable Court to sell the real property known as 121 Davis Road, Coatesville, Pennsylvania 19320 and to pay real estate broker commission and customary closing costs within the current Chapter 13 bankruptcy.

Respectfully submitted,

**ROSS, QUINN & PLOPPERT, P.C.**

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